

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Criminal No. 05-1849 JH

DANA JARVIS,

Defendant.

MOTION TO CONTINUE HEARING

Defendant Dana Jarvis, by and through counsel, Joe M. Romero, Jr., hereby moves the Court for an Order continuing the hearing on three motions: 1) Motion by USA for Order to Show Cause Why Protective Order Should Not be Vacated [Doc. No. 459], 2) Defendant's Motion to Vacate Protective Order [Doc. No. 537] and 3) Motion by USA for Interlocutory Sale of Real Property & Liquor License No. 2599 [Doc. No. 664], which are currently set for Wednesday, September 20, 2006 at 2:00 pm before the Honorable Judith C. Herrera. As grounds therefore, Defendant Jarvis states:

1. Because the three aforementioned motions pertain to the same property, judicial economy will be served by hearing these motions within the same setting.

2. Pursuant to D.N.M. LR-CR 47.8, a response must be served within fourteen (14) calendar days after service of the motion and a reply must be served within fourteen (14) calendar days after service of the response. *See also* FED.R.CR.P. 45 (rules for computing time).

3. The Motion by USA for Interlocutory Sale of Real Property & Liquor License No. 2599 [Doc. No. 664] was filed on August 30, 2006. Accordingly, Defendant has until September 13,

2006 to file his response. *See* D.N.M. LR-CR 47.8; FED.R.CR.P. 45.

4. This allows the government until September 27, 2006 by which to file its reply. *See* D.N.M. LR-CR 47.8; FED.R.CR.P. 45.

5. Accordingly, the current setting of September 20, 2006 pre-dates the briefing period allowable under D.N.M. LR-CR 47.8 by seven (7) days.

6. AUSA James R.W. Braun has been contacted regarding his position on this motion and states that the government will likely not require the time allowed by the applicable rules in which to file a reply. Consequently, the government opposes this motion to continue.

WHEREFORE, Defendant respectfully requests that that Court enter an Order continuing the hearing currently set for Wednesday, September 20, 2006 at 2:00 pm until a date after September 27, 2006.

Respectfully Submitted

Electronically filed 9/11/06

By:

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I hereby certify that a true and correct copy of the foregoing was mailed to opposing counsel, AUSA James Braun, on September 11, 2006.

Electronically filed 9/11/06

Joe M. Romero, Jr.